THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 22688 OF 1996

DATE: 19-1-2007

Between:

Ch.Bhaskar ... Petitioner

And

1. Airports Authority of India rep.
By its Chairman, New Delhi and 2 others .. Respondents

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 22688 OF 1996

O R D E R:

Questioning the proceedings of the 3rd respondent dated 10/11th October, 1996, cancelling the petitioner's earlier promotion as an Assistant Technical Officer FCS, the present writ petition is filed.

The petitioner was promoted as Assistant Technical Officer with effect from 1.7.1996, vide proceedings dated 24.6.1996, under the accelerated promotion scheme and his pay was fixed in the higher post. Subsequently, vide impugned proceedings dated 10/11th October, 1996, his promotion was cancelled on the ground that, in the seniority list of Technical Assistants, his date of appointment was erroneously recorded as 12.1.1988 instead of 12.1.1989.

It is not disputed before this Court by Sri M.Panduranga Rao, learned counsel for the petitioner, that if the correct date of appointment of the petitioner as Technical Assistant i.e., 12.1.1989 is taken into consideration, he would not be entitled for promotion as an Assistant Technical Officer under the FCA scheme and it is only on the basis of a wrong entry in the seniority list was he given promotion. Learned counsel would, however, urge that since the petitioner worked in higher post from 24.6.1996 till 11.10.1996 when his promotion was cancelled for no fault of his, the higher pay given to him during the interregnum period ought not to be recovered. I find considerable force in this submission. It is not the case of the respondents that the petitioner had obtained

promotion by fraud or by other such illegal means. For a mistake committed by the respondents the petitioner cannot be faulted and made to suffer. Since he had actually worked for these three months, in the higher post of Assistant Technical Officer, the emoluments given to him for this period cannot be permitted to be recovered.

Except to this limited extent that the respondents are held not entitled to recover the amount paid to the petitioner for this period, the writ petition fails and is accordingly dismissed. No costs.

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19-1-2007

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